

Battle Creek City Planning Commission

Staff Report for the December 17, 2014 Meeting

To: Planning Commissioners

From: Glenn Perian, Senior Planner
Planning and Community Development Department

Subject: Petition S-04-14, a Special Use Permit request for a Licensed Group Child Care Home for 387 Waubasca Rd, Parcel #0126-00-009-0

Summary

A petition from Ms. Taylor Seage Hudson requesting a special use permit for a Licensed Group Day Care Home at 387 Waubasca Rd as provided for in Chapter 1290, Section 1290.01(b)(6).

Background/Property Information

The subject site is located on the west side of Waubasca Rd., just south of Morgan Rd.



The parcel is approximately 85,762 s.f. (1.96 acres) in size with 144.38' of frontage and 594' of depth. City assessing records indicate the structure, a single family home, was constructed in 1940.



Surrounding Land Uses / Zoning

The properties in the immediate area are zoned R-1B and are rural in nature. Properties to the east are located in Bedford Township and the uses appear to be made up of large lot rural residential properties. A church is located just to the north of the subject property on the east side of the road.

Proposed Scope of Project

The applicant is seeking a special use permit to operate a group child care business out of the home at 387 Waubasca Rd. The proposed capacity of the daycare is up to 12 unrelated children, consistent with State law for these types of facilities. The plan is to provide childcare between 6am and 6pm each day, Monday through Friday and a schedule of daily activities and routines have been provided as part of the application packet.

The petitioner lives at the home, which is a State requirement for this type of day care, and the home is owned by the petitioner's mother. Besides the applicant, one additional employee is expected to be on site, depending on the number of children present at any one time.

The State of Michigan Department of Human Services (DHS) administers the licensing program that is required for all day care facilities. A Group Day Care Home is defined by the State as a private home in which care is provided to more than 6 but not more than 12 minor children for periods of less than 24 hours a day unattended by a parent or legal guardian. Structural changes are typically not required for these uses and the only anticipated change to the property will be the addition of a 30'x30' play area including outdoor play equipment located on the north property line as shown on the sketch drawing in your packet. The State does regulate certain code requirements such as heating, electrical, and smoke detectors. The State further regulates the actual operation of the day care including staffing, meals, daily activities, paperwork, etc. The complete set of State regulations can be found on the DHS website.

Applicable Ordinance Provisions

Group Day Care Homes, those providing care for seven to twelve unrelated minor children, are addressed in the City of Battle Creek Zoning Ordinance, Chapter 1290 Special Land Uses, specifically 1290.01(b)(6) which allows for “*Public, parochial or private school housing facilities; convalescent or nursing homes; homes for the aged; nursery schools or day care centers;*”. Those providing care for six children or less are allowed as a home occupation; and this section of the ordinance (1292.03(b)) also states that a special use permit is required for those providing care for more than six unrelated children.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Shoppers Guide October 30, 2014 and notices of the public hearing were also sent by regular mail on November 24, 2014 to eight owners and occupants of properties located within 300 feet of the subject parcel. At this time, we have not received any correspondence or phone calls relative to this request.

Neighborhood Outreach

The petitioner is planning on attending the Neighborhood Planning Council #5 meeting on Monday, December 8, 2014. We have asked the applicant to provide any feedback from the NPC and we are expecting correspondence from the NPC #5 chairman as it relates to this request.

Basis For Determination

As a special use, the Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan as well as on the character and development of the neighborhood. The ordinance and enabling legislation allows the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request shall be reviewed using the following standards listed in Chapter 1290.04 Basis for Determination (for Special Use Permits):

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.
- (b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.

- (e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.
- (f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.
- (h) The use will be consistent with the intent and purpose of this Zoning Code.

Analysis and Recommendation

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. Staff further finds the request consistent with the general standards listed in 1290.04, as outlined herein:

- (a) The use of this structure as a Group Day Care Home will be harmonious with and in accordance with the general objectives of the City of Battle Creek Master Plan. One goal of the plan is to have a work force large enough to help attract new economic development (pg. 4-2), and an important factor in this goal is the availability of adequate and safe day care for children of working families. To that end, the master plan calls for the City to ensure zoning ordinance regulations that will ensure adequate opportunities for safe and convenient day care and other support services near residential and high job-producing areas (pg. 4-3), such as this property.
- (b) The proposed use will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood as the primary use of the property is still residential and there are no exterior signs proposed for the day care.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses as the proposed use is compatible with surrounding zoning and residential land uses, and the limited hours of operation and size of the property and adjacent properties will provide ample space for the proposed use with little to no impact on surrounding properties.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole as a valuable service is provided to the community, in relatively close proximity to families, schools, and employment centers.
- (e) The use will be adequately served by essential public facilities and services in that public utilities already exist and no additional needs are required for this use. There is ample off-street parking and loading areas in the existing driveway and we believe there should be little to no impact to street traffic.

- (f) There will be no City expenses associated with the maintenance and improvements to the property, and therefore, the use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (g) There will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors. Any noise associated with the use will be the result of typical activities found in a residential neighborhood.
- (h) The primary use of the property will continue to be residential, and therefore the use will be consistent with the intent and purpose of this Zoning Code. Additionally, the facility will be subject to compliance with all relevant sections of the zoning ordinance and codified ordinances, including noise, noxious vegetation, and property maintenance. It will also be required to be in compliance with all State licensing/certificate regulations concerning the proposed use.

Therefore, as the request meets the general standards listed in Chapter 1290.04 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-04-14 that would allow a Group Day Care Home at 387 Waubascon Rd., on Parcel #0126-00-009-0 with the following conditions:

Project Specific Conditions:

1. All necessary approvals and any required permits shall be obtained, and maintained if applicable, from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to Certificate of Occupancy.
2. The approval of the special use permit is based upon the contents of the submitted application, including but not limited to the nature of the facility being a Group Day Care facility with a maximum capacity of twelve children. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.

Administrative Conditions:

3. Pursuant to Chapter 1232.01 (a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Zoning Administrator or his or her agent. Such a certificate shall state that the new occupancy complies with Building and Zoning Codes.
4. Pursuant to Chapter 1290.02 (e), certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.

The Planning Commission can add additional conditions to those listed above in the staff recommendation. The Planning Commission may also upon deliberation, choose an alternative action from the following alternatives:

- A1: Postpone the project for specific reasons, with agreement from the applicant;
- A2. Articulate revised rationale of the general standards and/or conditions to recommend to the City Commission Approval OR Denial of the subject application.

Attachments

The following information is attached and made part of this Staff report.

1. Special Use Permit Application and Supplemental Information (Petition #S-04-14)

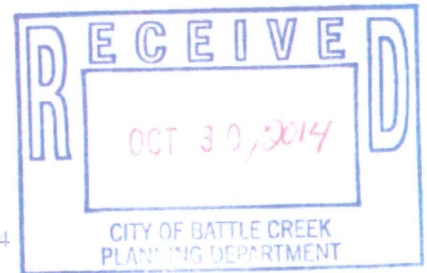


City of Battle Creek

Department of Planning and Community Development

City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014

Ph (269) 966-3320 • Fax (269) 966-3529 • www.battlecreekmi.gov



SPECIAL USE PERMIT Application

Petition No. # S-04-14

Date Received: 10/30/14

APPLICANT

NAME: Taylor Seage Hudson
ADDRESS: 387 Waubesacon Rd.
PHONE: 269 832 0617 FAX: N/A
EMAIL: taylorhudson31091@hotmail.com

OWNER (if different from applicant)

NAME: Juli Hudson-Eakins
ADDRESS: 387 Waubesacon Rd
PHONE: 269 420 7010 FAX: N/A
EMAIL: juleshe@sbcglobal.net

****If the applicant is not the property owner, a letter signed by the owner agreeing to the Special Use Permit must be included with the application.**

EXISTING CONDITIONS

Address(es) of property for which the request is being sought: 387 Waubesacon Rd
Battle Creek, MI 49037

Legal description attached -

Current use of the property: Family home

List existing structures on the property and the approximate age of each. House/dwelling approx. 74 years
Garage approx 74 years / Pole barn 7 years

Has property involved ever been the subject of a previous application? If yes, please list each one and the date the request came before the Planning Commission.

N/A

PROJECT DESCRIPTION

What is the proposed use of the property that warrants the special use permit? Licensed
Group Childcare home (7-12 children)

Please list all activities that will take place on the property if the special use permit were approved?

See attached page / "daily activities"

How many employees currently work on the property? How many will be added if the special use permit is approved, and what days/times will they be onsite? Currently work on premises /
after licensing, 1-2 employees depending on how many children
are present.

Will the approval of the special land use necessitate changes to the property, i.e. building construction, additional parking, driveways, fencing? If yes, please provide a list of property improvements that will be associated with the special use permit.

No additional buildings or fencing will be added.

What are the proposed hours of operation for the special use? Please indicate if the special land use will be temporary, seasonal, or long term in nature, providing dates and timeframes if applicable:

Longterm 6am - 6pm

STANDARDS FOR APPROVAL

Chapter 1290 Special Uses and Land Development lists standards that will be reviewed by the Planning Commission and City Commission and the request for special use permit will only be approved if these standards are met. Provide factual and supportive evidence that your application meets each of these standards. Additional sheets may be attached if necessary.

Will the special land use be designed, constructed, maintained, and/or operated in a manner harmonious with the character of adjacent properties and the surrounding area? ☒ Yes ☐ No

everything will remain the same except for outdoor
play equipment which will be located in 30' x 30' area
located in the north side yard of the property

Will the special land use change the character of adjacent properties and the surrounding area?

☐ Yes ☒ No

all buildings will remain the same, additional outdoor
play equipment will be added but should not
change the character of adjacent properties

Will the special land use be hazardous to adjacent properties or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or properties?

☐ Yes ☒ No

we will be adding outdoor play equipment to the property but this will not effect the adjacent properties.

Will the special land use be a substantial improvement to property in the immediate vicinity and to the community as a whole? ☒ Yes ☐ No

To the community as a whole - we will be providing a great service / environment for young children to grow and learn.

Will the special land use place demands on public facilities or services in excess of current capacity?

☒ Yes ☐ No

Water usage, electrical usage and natural gas usage will increase due to the additional children on site

Will the special land use produce excessive traffic, noise, smoke, fumes, or glare? ☒ Yes ☐ No

There will be additional traffic during dropoff and pick up times throughout the day.

SUBMITTAL REQUIREMENTS

Each request requires the following items to be submitted along with the completed application; incomplete applications will not be forwarded to the Planning Commission.

1. Payment of a non-refundable \$600.00 filing fee, made payable to the City of Battle Creek.
2. An affidavit authorizing an applicant to act on behalf of the owner if the petitioner is not the owner.
3. Legal description of subject property and a list of all deed restrictions.
4. Property Site Plan as outlined in "Special Use Permit, Information and Procedures".

APPLICANT SIGNATURE

By signing this application, the applicant hereby declares that all answers given herein are true to the best of their knowledge, and confirms that all information required for submission of a special use permit have been submitted. Furthermore, the applicant confirms that they have thoroughly read "Special Use Permit, Information and Procedures" and agrees to comply with all requirements and procedures for special use permit.

Jayla J. Hudson
Name

10/28/2014
Date

All About Kids Childcare

Daily Activities

6:00am – 7:00am: Morning rest time. The children may go back to sleep if desired or may relax in a comfortable area with reading/coloring materials.

7:00am – 7:45am: Breakfast time. All children will wash their hands and a well-balanced breakfast of grains, fruits and dairy will be provided.

School Year

7:45am – 8:00am: School aged children will get ready for school. Younger children will get ready for learning time; shapes, numbers, letters, colors, etc.

Summer

8:00am – 9:00am: All children will have circle time. Each child will choose a book and take turns reading them aloud.

9:00am – 10:00am: Depending on the season/weather, the children will go outside to play. In the event of snow/bad weather, the children will play in the living room with the toys/materials provided.

10:00am – 10:30am: Morning snack. All children will wash their hands and a healthy snack will be provided.

10:30am – 11:30am: All children will be seated for an educational program and/or music time.

11:30am – 12:00pm: Lunch time. All children will wash their hands and a well-balanced lunch of meat, grain, vegetables, fruits and dairy will be provided.

12:00pm – 12:15pm: Use restroom and wash hands before nap.

12:15pm – 2:15pm: Nap time. All children under the age of five will take a nap on their designated mat with a blanket and pillow. Children over the age of five may either nap (if desired) or read educational books/magazines.

2:15pm – 2:30pm: Restroom break and wash hands.

2:30pm – 3:00pm: Afternoon snack. All children will wash their hands and a healthy snack will be provided.

School Year

3:00pm – 4:00pm: School aged children (if present) will be seated to work on/get help with homework. Younger children will be seated for additional learning time.

4:00pm – 6:00pm: All children may do an activity of their choosing until parent(s) arrive; play outside, play with toys, color, draw, read, etc.

Summer

3:00pm – 4:00pm: All Children will be seated for activity time.

4:00pm – 6:00pm: All children may do an activity of their choosing until parent(s) arrive; play outside, play with toys, color, draw, read, etc.

1111 sq ft House

House/Dwelling
1111 sq ft
74 years old

Used for Childcare

Total Property 2 Acres

Driveway

Garage
574 sq ft
74 years old

Not used for childcare

Dirt/Grass
Driveway

Playground
Approx.
900 sq ft

Used for childcare

Pole Barn
960 sq ft
7 years old

Not used for childcare

North

To Whom It May Concern,

On this 29th day of October, 2014, I, Juli Ann Hudson-Eakins, give my daughter, Taylor Seage Hudson, permission to act on my behalf regarding the property situated at 387 Waubascacon Road, Battle Creek, MI 49037. I give Taylor permission to apply for and operate a licensed group childcare home at said property and apply to any special permits needed to receive said license.

Thank you

Juli Hudson-Eakins

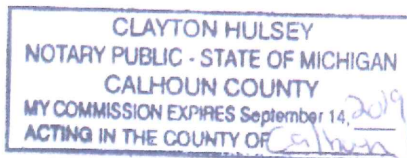
Juli Hudson-Eakins

Notary Signature

Clayton Hulsey

Date

10-29-14



DEED OF PERSONAL REPRESENTATIVE

THIS INDENTURE, made this 14th day of October, 2014, between JULI HUDSON-EAKINS, as personal representative of the Estate of Lloyd M. Eakins, deceased, by appointment by the Probate Court of Calhoun County, Michigan, pursuant to letters of authority dated July 18, 2014 (Case No. 2014 - 655 - DE), of 387 Waubasca Road, Battle Creek, Michigan 49037, of the first part, and JULI HUDSON-EAKINS, of 387 Waubasca Road, Battle Creek, Michigan 49037, of the second part;

WITNESSETH, that the said party of the first part, in partial distribution of the said Estate of Lloyd M. Eakins, described hereinabove, has granted and conveyed, and by these presents does grant and convey unto the said party of the second part, and to her heirs and assigns, Forever, all of the estate, right, title and interest of the said Lloyd M. Eakins in and to that parcel of land situate in the City of Battle Creek, County of Calhoun, State of Michigan, to wit:

The South ½ of the following described parcel of land: Commencing at a point where the 1/8th line separating the Northeast 1/4 of the Southwest 1/4 of Section 26, Town 1 South, Range 8 West, from the Southeast 1/4 of said Southwest 1/4, intersects the center of the highway running along the Easterly side of said Southwest 1/4 of Section 26; thence South along the center line of said highway 17.5 rods; thence West parallel with said 1/8th line 36 rods; thence North parallel with the center line of said highway 17.5 rods; thence East along said 1/8th line 36 rods to the place of beginning.

Commonly known as 387 Waubasca Road, Battle Creek, Michigan
Tax ID No. 0126-00-009-0


Together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof. To Have and to Hold, Forever. And the said party of the first part, for herself and for her heirs, executors and administrators, does covenant, promise and agree to and with the said party of the second part and her heirs and assigns, that she has not made, done, committed, executed or suffered any act or acts, thing or things whatsoever, whereby, or by means whereof, the above described premises, or any part thereof, now are or at any time hereafter shall or may be impeached, charged or encumbered in any manner whatsoever.

TRANSFER TAX EXEMPTION PER MCL 207.526(a) + MCL 207.505(a)

The grantor grants to the grantee the right to make all divisions under section 108 of the land division act, Act No. 288 of the Public Acts of 1967.

This property may be located within the vicinity of farm land or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act.
(When applicable, pronouns and relative words shall be read as plural, feminine or neuter, respectively.)

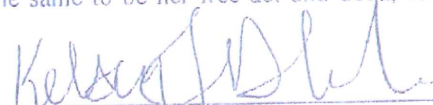
IN WITNESS WHEREOF, the said party of the first part has hereunto subscribed her name the day and year first above written.



Juli Hudson-Eakins, as personal representative
of the Estate of Lloyd M. Eakins, deceased.

STATE OF MICHIGAN)
)ss
COUNTY OF CALHOUN)

On this 14th day of October, 2014, before me, a notary public in and for said County, personally appeared Juli Hudson-Eakins, known by me and known by me to be personal representative of the estate of Lloyd M. Eakins, deceased, who executed the foregoing instrument, and acknowledged the same to be her free act and deed, as said personal representative as in said instrument described.



Kelsey J. Diederich
Notary Public
Calhoun County, Michigan
My commission expires: 02/24/2020
Acting in Calhoun County

Prepared by:
David L. Zebell, Lawyer
3 Heritage Oak Lane
Battle Creek, MI 49015

K.B.
K.D.